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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 99,089)

In re Application of:

Mark O. Vogel

Serial No.: 09/318,460

Filed: May 25, 1999

For: Method for Dynamic Performance
Optimizing in a Data-Over-Cable
System

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) Art Unit: 2666
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) Examiner: Melanie Jagannathan
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TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In regard to the above-identified application,

1. We are transmitting herewith the attached:
 - a) Response to Office Action Mailed December 15, 2004; and
 - b) Return Receipt Postcard.
2. With respect to fees:
 - a) No fee is required.
 - b) Please charge any underpayment or credit any overpayment our Deposit Account, No. 13-2490.
3. CERTIFICATE OF MAILING UNDER 37 CFR § 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1, are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 15, 2005.

Respectfully submitted,

Robert J. Irvine
Registration No. 41,865



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**RESPONSE TO THE OFFICE ACTION
MAILED DECEMBER 15, 2004**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants submit the following amendments and remarks in response to Office
Action mailed December 15, 2004 in connection with the above-identified application.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of
this paper.

Remarks/Arguments begin on page 12 of this paper.